

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

Barber et al.

Plaintiffs

v.

**Indevus Pharmaceuticals, Inc., F/K/A
Interneuron Pharmaceuticals, Inc.;
Wyeth, Inc., F/K/A American Home
Products Corporation;
Wyeth Pharmaceuticals, Inc F/K/A
Wyeth-Ayerst Pharmaceuticals,
Inc., A Division Of American Home Products
Corporation; and Boehringer Ingelheim
Pharmaceuticals, Inc.,**

Defendants

**CIVIL ACTION NO.
04-11353 GAO**

PLAINTIFFS' MOTION TO REMAND

Pursuant to 28 U.S.C. § 1447(c), plaintiffs hereby seek to remand this action to the Superior Court of the Commonwealth of Massachusetts, Middlesex County. As grounds for this motion, plaintiffs state that the ground asserted for removal by defendants Wyeth, Inc. f/k/a American Home Products Corporation; and Wyeth Pharmaceuticals, Inc. f/k/a Wyeth-Ayerst Pharmaceuticals, Inc., a Division of American Home Products Corporation (collectively referred to as "Wyeth"), is improper.

More specifically, defendant, Indevus Pharmaceuticals, Inc., f/k/a Interneuron Pharmaceuticals, Inc. ("Indevus"), is a resident of Massachusetts and has not been fraudulently joined. Wyeth cannot meet the high burden for fraudulent joinder as the

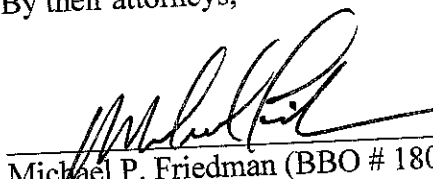
allegations in the complaint and supporting documents show that plaintiffs have far more than a colorable claims against Indevus.

In support of their motion, plaintiffs have filed a memorandum and supporting documents. In the event that their motion is granted, plaintiffs request that this Court issue an order requiring that the removing defendants pay plaintiffs' just costs and any actual expenses, including attorneys fees, incurred as a result of the removal.

Respectfully submitted this 9th day of July, 2004.

The Plaintiffs

By their attorneys,


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Dated: July 9, 2004

CERTIFICATE OF SERVICE


This is to certify that I have on this 9th day July, 2004 served Plaintiff's Motion to Remand along with Plaintiff's Memorandum in Support of their Motion to Remand upon all parties to the above captioned action by hand, by United States First Class Mail, postage prepaid, or by Federal Express to the following:

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